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Heiduk, Felix

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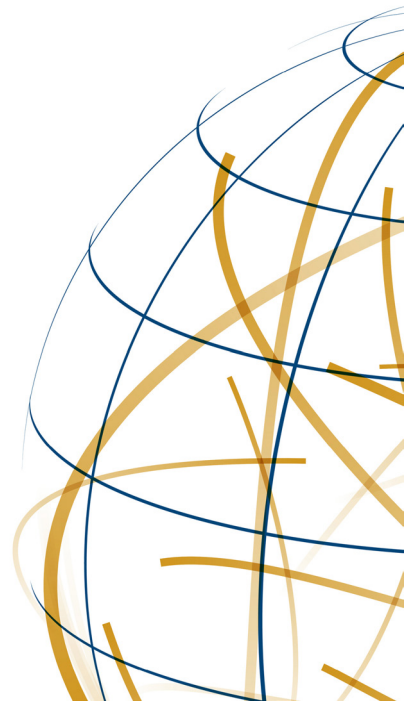
Myanmar, the Rohingya Crisis, and Further EU Sanctions

Felix Heiduk

The violence against the Rohingya, which has led hundreds of thousands of Rohingya to seek refuge in Bangladesh, has severely damaged Myanmar's international image. In response to the deterioration of the human rights situation in Myanmar in October 2018, the European Union (EU) threatened to withdraw the trade preferences that ensure the country has duty-free access to the EU common market. It seems highly plausible, however, that such measures would fail to alter the political calculations of the Burmese government or of the military. Instead, a withdrawal of the trade preferences would primarily hit the mostly female workers in the country's textile industry. The EU and its Member States should therefore consider a combination of specific sanctions against military enterprises as well as tightened entry bans and account freezes that are directed at leading military personnel. These targeted sanctions against Myanmar's armed forces should be flanked by an increase in the level of diplomatic engagement with civilian actors in the country.

The NLD (National League for Democracy), under the leadership of Aung San Suu Kyi, emerged as the winner of the first free parliamentary elections in Myanmar on 8 November 2015. The NLD's election victory was widely perceived in the West to firmly set the country on the path towards democracy — a misjudgement that has become highly visible in the context of the Rohingya crisis. After all, Myanmar's transition to democracy since 2010 has taken place under the control of the military — the same forces that had ruled the country with an iron fist for decades. This specific aspect of Myanmar's democratisation process is plain to see when one examines the current con-

stitution, which guarantees the military 25 per cent of all seats in the legislature. In addition, the constitution cannot be amended without a greater than 75 per cent share of the vote, which provides the military with a de facto blocking faction in the new, "democratic" Myanmar. Powerful ministries such as those of Defence, the Interior, and the Border Guard, are in the hands of the military, too. The constitution furthermore enables the military to declare a state of emergency at any time. Hence, Myanmar's current political system is best understood as a hybrid of civil and military rule. Both the NLD and the military have, for the time being, come to terms with the



status quo. The NLD has postponed any constitutional amendments until the next legislative period. In return, the military does not curtail the NLD's legislative activities and grants Aung San Suu Kyi a leading role in the peace process with the armed ethnic groups and in foreign policy. The red lines that continue to inhibit Myanmar's democratisation process have prominently come to the fore in the wake of the Rohingya crisis. Since the NLD took over the government, the party's criticisms of the military's human rights violations have been silenced, as have calls for a comprehensive reform of the security sector. Moreover, under the banner of defending the national interest, such as safeguarding territorial integrity and combating terrorism, the NLD has often come to adopt the positions and policy preferences of conservative elements within the armed forces. As a result, the armed forces — with the support of large sections of the population and with the backing of the government — were able, for example, to expel the Rohingya under the guise of conducting large-scale “counter-terrorism” operations.

Two narratives of the Rohingya crisis

In Myanmar and the West, two completely different narratives on the Rohingya crisis have emerged. The uncontrolled influx of “illegal immigrants” from Bangladesh and the attacks by the Arakan Rohingya Salvation Army (ARSA) on police stations in August 2017 have been widely identified as the triggers for the conflict in Rakhine by the armed forces, as well as the media, the NLD leadership, and subsequently large parts of the general population. ARSA's co-ordinated attacks, in which 12 police officers lost their lives, were framed as a serious terrorist threat to the stability of Myanmar. According to the official reading, ARSA's aim is to establish an Islamic state on the territory of Myanmar and to subsequently drive out the Buddhist population. ARSA is said to have connections to the so-called

Islamic State, is believed to have been established and financed with foreign support, and to have more than 1,000 armed fighters. As a reaction to the “terrorist threat” posed by ARSA, the security forces applied their infamous “four cuts” strategy, which had already been used by the military for many years to quell the country's many other ethnic insurgencies. The strategy aims to cut off food, financial resources, information, and support to any insurgents. The civilian population, which is believed to be the main supplier of the four resources to the insurgents, was thus declared a legitimate target of counterinsurgency measures, leading to the aforementioned consequences for many Rohingya. Both the government and the majority of the population usually either dismiss reports of violence against the Rohingya as “Islamist propaganda”, or they classify it as unavoidable collateral damage. Thus, the Rohingya crisis is still primarily interpreted as being a “terrorism problem” in Myanmar, and the military's actions therefore have widespread support. In this reading, the West has, first of all, fallen victim to a well-orchestrated international Islamist propaganda campaign. Second, the West's one-sided criticism of the Myanmar government and military fails to take into account the realities on the ground in Rakhine.

The discourse on the Rohingya crisis in large parts of the West and in Myanmar's neighbouring states is remarkably different. Here the main causes of the conflict are seen as having stemmed from the decades of structural violence against the Rohingya as second-class citizens, as well as from the excessive use of force by the security forces against the Rohingya in the aftermath of the ARSA attacks in 2017. According to external observers, the military's actions have now taken on the characteristics of a genocide against the Rohingya. The fact that the NLD government was complicit in the excesses through its silence has made it even more difficult to manage the conflict in Rakhine. Only massive international pressure can prevent a genocide of the Rohingya. The crisis can only be solved if the recom-

recommendations drawn up by the United Nations (UN) are swiftly and fully implemented. These include establishing a pathway to citizenship and full civil rights for the Rohingya, freedom of movement, an independent investigation of alleged human rights violations, and the repatriation of displaced people. Both narratives could not be more different from one another with regard to their descriptions of the key characteristics of the Rohingya crisis, their causal analysis, and their recommendations for action. What both have in common, however, is the lack of reference to the other side's respective interpretation of events in Rakhine.

Brussels' reaction

In response to the Rohingya crisis, the European Commission's Directorate-General for Trade is currently considering whether to withdraw the EU trade preferences granted to Myanmar in 2013. As part of its "Everything but Arms" (EBA) initiative, the EU guarantees duty-free and quota-free access to the EU's common market for all goods except arms to economically underdeveloped states. States wanting to participate in the EBA initiative can only do so if they ensure compliance with labour and human rights standards. Myanmar had already lost access to the EBA initiative once before during the military dictatorship. It was only granted the right to rejoin the EBA initiative in 2013 in the context of the country's liberalisation process.

The main beneficiary of Myanmar's duty-free and quota-free access to the EU's common market since 2013 has been the Burmese textile industry. The textile industry had been badly hit in 2003 by the sanctions imposed by the United States against the ruling military junta. Before 2003, the United States had taken almost half of Burma's textile exports. Following the imposition of sanctions, a large number of textile mills had to close within a few months, and between 100,000 and 200,000 — mostly female — employees lost their jobs. In the

meantime, the textile industry has recovered and employs well over half a million workers. The reason for this upswing has been steadily rising demand — in the United States, and especially in the EU — since 2013. Almost half of Myanmar's textile exports now go to the EU, and the figure is predicted to rise to 60 per cent by 2019. According to Burmese trade unions and employers' associations, the withdrawal of trade preferences granted under the EBA initiative would have a serious impact on the textile sector. Not only would there be a threat of massive losses in orders — and thus further factory closures and mass layoffs — many of the dismissed workers would also be forced into the informal sector or forced to migrate to neighbouring countries.

The current threat by EU Trade Commissioner Cecilia Malmström to withdraw trade preferences is based on the assumption that the socio-economic consequences of a withdrawal of trade preferences would force the Burmese government to change its policy towards the Rohingya. The EU's existing sanctions — imposed in 2018 in response to the escalation of violence in Rakhine — had had no effect in this respect. In addition to a ban on military cooperation with the armed forces and security forces and a tightening of the arms embargo, the current sanctions regime also includes entry-bans into the EU for seven members of the Burmese security forces who have been demonstrably involved in human rights violations against Rohingya as well as the freezing of their assets.

Although it appears sensible and necessary for Europe to increase its pressure on Myanmar, the withdrawal of trade preferences is a rather blunt sword in the EU's arsenal. Although such a measure would showcase a value-based EU foreign policy as well as the ability of the EU to achieve foreign policy coherence, the primary goal of persuading Myanmar's government and military to change their behaviour is unlikely to be accomplished. It is plausible to assume — given the experience with previous sanctions against Myanmar — that workers in the textile industry and their

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SWP
Stiftung Wissenschaft und
Politik
German Institute for
International and
Security Affairs

Ludwigkirchplatz 3 – 4
10719 Berlin
Telephone +49 30 880 07-0
Fax +49 30 880 07-100
www.swp-berlin.org
swp@swp-berlin.org

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families will be disproportionately hard hit by such measures. Moreover, growing international pressure has already led to partial solidarity with the military among the general Burmese public. The “West” — in which the NLD leadership and many ordinary Burmese had seen an unconditional ally during the military dictatorship — is now viewed by many as a “false friend”. In turn, Myanmar’s leadership and public have begun to reorient themselves towards China.

Alternative options for the EU

Although the Myanmar government announced in November 2017 that it would support repatriation of the Rohingya and subsequently erected camps and return centres for 30,000 people in two districts on the border with Bangladesh in the summer of 2018, a bilateral repatriation agreement between Myanmar and Bangladesh has not yet been implemented because the Rohingya refused to return to Myanmar. The reason for this lies in the Burmese government’s refusal to guarantee the Rohingya full civil rights and freedom of movement. Also the tense security situation in Rakhine has not significantly improved for the Rohingya. As a result, more than 15,000 Rohingya have fled to Bangladesh in 2018, according to the UN.

Against this background, the EU is well-advised to increase the pressure on the military. This, however, requires targeted sanctions, which primarily target the security forces and their cronies. One option would be to impose economic sanctions on the two largest military conglomerates: The Union of Myanmar Economic Holdings Ltd. and Myanmar Economic Corp. Through these umbrella companies, the military is involved in a whole range of economic sectors, including gems, tourism, transport, banking, and real estate. The shareholders are active and retired military personnel. Most foreign direct investment in Myanmar currently goes into companies that either

directly belong to the military conglomerates or are at least affiliated with them.

However, there is still little known about many of the military’s manifold economic activities. A precise mapping of the military’s entrepreneurial activities in Myanmar — developed in cooperation with research institutes and non-governmental organisations — could provide the basis for future punitive measures that directly target the security forces. Another option for additional sanctions, which could be taken either as an alternative or in combination with economic sanctions, would be the extension of entry bans and the freezing of accounts of leading military personnel who were, and are, involved in the expulsion of the Rohingya. So far, the military top echelon, such as General Min Aung Hlaing, the commander-in-chief of the armed forces, or his Deputy General, Soe Win, have not been sanctioned at all. Even if it is unrealistic to assume that further EU sanctions will lead to immediate changes in attitude and behaviour of the dominant actors in the country, it is nevertheless important — given the symbolic power and demonstration of adherence to principles — to apply such coercive measures.

In addition, it seems highly advisable to put increased international pressure on the military through strong diplomatic engagement of civilian actors in the country. Channels of communication should be kept open at all civilian levels. Moreover, dialogue with Myanmar on the European side should not be limited to expressing deep concerns about the crisis in Rakhine, but should aim to engage with local partners at the practical level on managing the Rohingya crisis. The EU would furthermore be well-advised to maintain — and if possible, expand — its cooperation on conflict management in other conflict-ridden parts of the country, which currently go almost unnoticed by the international community.

Dr Felix Heiduk is a Senior Associate in SWP’s Asia Division.